IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 1094 OF 2005

Shashikant K. Gandhi & Ors ...Applicants

Versus

Lubrizol India Ltd. & Anr ...Respondents

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Mr. A.P. Mundargi with Mr. Prakash Naik, Advocate for Applicants

Mr. Nikesh Kabani i/b Mr. ashwin Ankar, Adv. for respondent No.1.

Mr. M.S. Mhambray, A.P.P. for State.

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CORAM: SMT. V.K. TAHILRAMANI, J.

DATED: 11TH AUGUST, 2005

P. C.:-

1. Leave to amend. Amendment to be carried out forthwith.

2. Heard the learned advocate for the applicants, the learned advocate for the respondent No.1 i.e. original complainant and the learned A.P.P. for the State.

3. The applicants have prayed for quashing of process issued against them in Criminal Case No. 3941/S/2002 which is pending in the Court of learned Metropolitan Magistrate, 23rd Court, Esplanade,

Mumbai. In the said case, process has been issued against the applicants under Section 138 of Negotiable Instruments Act.

4. For the reasons recorded in my order dated 13th June, 2005 passed in Criminal Writ Petition No.213 of 2005 and order dated 21st June, 2005 passed in Criminal Application No.550 of 2005, the applicants have an efficacious remedy of preferring revision against the order of Magistrate issuing process. Hence, in my opinion, it would be appropriate that the applicants prefer revision before the concerned Sessions Court against the order of the Magistrate issuing process.

5. Liberty is granted to the applicants to prefer revision before the concerned Sessions Court. The learned advocate for the applicants states that the necessary revision would be preferred within a period of four weeks from today. The learned advocate for the respondent No.1. i.e. original complainant fairly states that no objection would be raised in respect of delay in filing revision before the learned Sessions Judge.

6. On the necessary revision being preferred by the applicants before the concerned Sessions Court, the concerned Sessions Court shall dispose of the same on

merits after hearing necessary parties.

7. The applicants have also prayed for quashing of Non bailable warrants which have been issued against them by the learned Magistrate by orders dated 16.12.2004, 2.3.2005 and 4.6.2005. The learned advocate for the respondent No.1 i.e. original complainant fairly states that he has no objection to the said non bailable warrants being quashed on the condition that if the revision is decided against the applicants and the trial proceeds, the advocate appearing for the applicants shall enter the plea on behalf of the applicants and go on with the matter. Mr. Mundargi states that if the trial proceeds, the learned advocate for the applicants shall enter the plea on behalf of the applicants and go on with the matter. In view of this statement, the non bailable warrants issued by orders dated 16.12.2004, 2.3.2005 and 4.6.2005 are quashed and set aside.

8. Application is disposed of.

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